



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: **201223020**
Release Date: 6/8/2012
Date: March 13, 2012
UIL Code: 501.33-00

Contact Person:
Identification Number:
Contact Number:
Employer Identification Number:
Form Required To Be Filed:
Tax Years:

Dear

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Since you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

Letter 4038(CG) (11-2005)
Catalog Number 47632S

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

cc:



**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224**

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: 11/8/2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

O =
P =
Q =
R =

UIL:

501.33-00

Dear

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

Issues

- Do you qualify for exemption under section 501(c)(3) of the Code? No, for the reasons described below.

Facts

You were formed as a corporation on Q in the state of O for charitable purposes. You amended

Letter 4034 (CG) (11-2005)
Catalog Number 47628K

your stated purpose to “serve the citizens and public at large with the exchange of free and volunteer services to people in need with no profit to any participants or members therein or to any other entity.”

You are a membership organization comprised of different individuals in your community who subscribe to your proposed barter theory of mutual benefit through a time sharing agreement. You are formed to provide services to members through a reciprocal exchange that uses units of time as currency. Also, services of any or all kinds are limited to the members.

Your activities consist of establishing and maintaining a time bank in the state of O. You describe the concept of time banking as a person spending an hour doing something for somebody in your community. The hour goes into a time bank as a time dollar. Then that person has a time dollar to spend on having someone do something for them. There is no fee to participate, and there is no fee for services other than time dollars. Time dollars have no currency value.

You advertise and receive applications for membership in a time bank. You do criminal checks on the applicants and approve members. You input and maintain member information on the computer using software designed to track time dollars earned and spent as well as tracking the type of work or services that your members want and/or are willing to do. Members can contact your office or access the software online to locate information for the service they want. Any and all residents and businesses of P community and the surrounding area may participate in this activity.

You provide a list of possible tutors for students of your educational facilities to strengthen their study habits and knowledge. You also plan and facilitate monthly socials for all members.

You state that 100% of your time is dedicated to time banking activities.

Law

Section 501(c)(3) of the Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided no part of the net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Treasury Regulations (“regulations”) provides that an organization will be regarded as “operated exclusively” for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations states that an organization is not operated exclusively for the statutory purposes if its net earnings inure to the benefit of individuals.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Revenue Ruling 69-175, 1969-1 C.B. 149, states that a nonprofit organization, formed by parents of pupils attending a private school, that provides school bus transportation for its members' children serves a private rather than a public interest and does not qualify for exemption under section 501(c)(3) of the Code.

Revenue Ruling 71-395, 1971-2 C.B. 228, states that a cooperative art gallery formed and operated by a group of artists for the purpose of exhibiting and selling their works does not qualify for exemption under section 501(c)(3) of the Code.

Revenue Ruling 78-86, 1978-1 C.B. 151, states that a public off-street parking facility which was formed by a group of local merchants to alleviate a lack of parking space in the central business district does not qualify for exemption under either section 501(c)(3) or section 501(c)(4) of the Code.

Application of Law

You are not described in section 501(c)(3) of the Code because you are not operated exclusively for charitable or educational purposes.

As a time banking community network, you provide a mutual benefit to the members in your community similar to a barter exchange which utilizes units of members' time as the currency for reciprocal service exchange. This does not further an exempt purpose under section 501(c)(3) of the Code as required under section 1.501(c)(3)-1(c) of the regulations.

You promote fellowship, commingling and personal contact among the members. This comprises a more than insubstantial social activity to and for your members and is not in furtherance of an exempt purpose. Therefore, you do not meet the operational test requirement of section 1.501(c)(3)-1(c)(1) of the regulations as operated exclusively for one or more exempt purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Your application for exemption indicates that there is intent to operate as a type of cooperative organization for the mutual benefit of your members. This type of organization is not serving a public purpose but rather is operated for the private interest of your members. You limit services of any and all kinds to your members providing a prohibited private benefit under section 1.501(c)(3)-1(c)(2) of the regulations.

You are similar to the organization described in Revenue Ruling 69-175. Although you do not charge fees for membership in the time bank and time dollars do not have currency value, your system of allowing members to deposit time dollars and exchanging time dollars for other

service acts in a cooperative manner and, therefore, serves the private interests of your members.

You are similar to the organization described in Revenue Ruling 71-395 because of private benefit to your individual members through the reciprocal exchange of services using an alternative monetary system which has units of time as currency. The given example of a cooperative art gallery engaged in showing and selling only the works of its own members and which is a vehicle for advancing their careers and promoting the sale of their work fails the operational test for IRC 501(c)(3). This closely parallels your organization which is also serving private rather than public interests and as such does not qualify for exemption under section 501(c)(3) of the Code.

You are similar to the organization described in Revenue Ruling 78-86 because that organization also utilizes time for the mutual benefit of the participating merchants by offering a free or reduced rate off-street parking facility as an incentive for customers to come and shop in the participating merchants' stores. Similarly your organization benefits the members of the network rather than serving a public interest and for this reason does not qualify for tax-exempt status under IRC section 501(c)(3).

Applicant's Position

You stated you are formed for charitable purposes including relief of the poor and distressed, lessening the burdens of government, and combating community deterioration by helping coordinate activities including teaching English or Spanish, transportation to or from the doctor, grocery shopping, carpooling kids to activities, and house cleaning along with other activities and specific examples. You also state that the population of P is largely minority and overwhelmingly low-income. Public housing is abundant and % of students in the area qualify for the free lunch program.

You also submitted a letter ruling from the Internal Revenue Service which stated that a time bank operation in R was not a barter exchange under section 6045 of the Code.

Service Response to Applicant's Position

Although the community of P in which you operate may include the poor or distressed you do not restrict membership or services exchanged so as to ensure that your activities are operating exclusively for charitable purposes. In addition, the fact that activities may include minority or low income members does not change the fact that your activities serve the private interests of your members rather than a public interest.

You do not meet the operational test for IRC 501(c)(3) due to your structure as a reciprocal exchange network which benefits primarily the individual members who work for one another to forge stronger intra-community connections and build social capital. However you do not serve a public interest which is required for exempt status under IRC section 501(c)(3).

The letter ruling that you provided did not include any opinion as to whether the activity was furthering an exempt purpose under section 501(c)(3) of the Code. In addition, the ruling cannot be cited as precedent.

Also, your social activities are more than incidental to the charitable purpose, and to a large extent, may be the main attraction for the individuals who make use of your organization. They become members of your network to commingle and enjoy fellowship with one another similar to a social club but without the expense of membership fees. This type of arrangement does not further a charitable purpose as would qualify for exemption under section 501(c)(3) of the Code.

Conclusion

Based on the facts and information submitted, you are not operated exclusively for exempt purposes. You serve the private interests of your members rather than public interests. Thus, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code, and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter.

We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

Types of information that should be included in your appeal can be found on page 2 of Publication 892, under the heading "Regional Office Appeal". The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:

"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

Your appeal will be considered incomplete without this statement.

If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. To be represented during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and*

Declaration of Representative, if you have not already done so. For more information about representation, see Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications. If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter to you. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

We have sent a copy of this letter to your representative as indicated in Form 2848, *Power of Attorney and Declaration of Representative*.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure, Publication 892